

Planning Commission Date: October 27, 2004

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Staci Pereira

Public Hearing: Yes: X No:

Notices Mailed On: n/a

Published On: 10-14-04

Posted On: n/a

TITLE: **CONSIDERATION OF ZONING ORDINANCE TEXT
AMENDMENT NO. ZT2004-4**

Proposal: The City proposes to amend the Zoning Ordinance adding tutoring centers as a conditional use in the Highway Services District.

Location: Highway Service districts citywide

RECOMMENDATION: **Recommend adoption of an ordinance to the City Council for the amendment to the Zoning Ordinance text (ZT2004-4).**

Attachments: Draft Ordinance

DISCUSSION

At the October 13th Planning Commission meeting, staff presented a potential zoning ordinance amendment that would allow tutoring centers in the Highway Service (HS) district as a conditional use. The proposed amendment stems from an increase in the demand for tutoring centers within the City in the recent years. Staff processed a zoning text amendment (Ordinance No. 38.761) in May of 2003 that added tutoring centers to the General Commercial (C2) and Town Center (TC) zoning districts as a permitted use. Prior to this amendment, the zoning code did not address tutoring centers.

Adding tutoring centers as a conditional use in the Highway Service (HS) district would provide more opportunity for tutoring centers to locate within the City, which is currently limited to two districts. As a conditional use, staff would review the application and address any concerns with parking and hours of operation that may conflict with other businesses in the area.

Conformance with CEQA

The proposed project is exempt from further environmental review pursuant to Class 1, Section 15061 of the California Environmental Quality Act (CEQA) Guidelines, which exempts projects that will not have a significant effect on the environment. Tutoring centers would be conditional uses in the Highway Service (HS) district and staff would review any adverse impacts such as

traffic, noise, parking, etc. under the use permit application. Therefore, staff concludes that no significant effects on environment would result from this use.

RECOMMENDATION

Close the Public Hearing. Recommend adoption of an ordinance to the City Council for the amendment to the Zoning Ordinance text (ZT2004-4).

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REGULAR

NUMBER: 38.***

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING
SECTION 21 OF CHAPTER 10, TITLE XI OF THE MILPITAS
MUNICIPAL CODE ALLOWING TUTORING CENTERS AS
CONDITIONAL USES IN THE HIGHWAY SERVICES
ZONING DISTRICT.

HISTORY: This Ordinance was introduced (first reading) by the City Council
at its meeting of _____, upon motion by
Councilmember _____ and was adopted (Second
reading) by the City Council at its meeting of _____
_____, upon motion by Councilmember _____. Said
Ordinance was duly passed and ordered published in accordance
with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals and Findings.

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing on _____ to consider the amendment to Title XI, Chapter 10, Section 21 of the Milpitas Municipal Code. In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation, which was presented to the City Council prior to consideration of this Ordinance.
- B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on _____.
- C. The City Council finds that this Ordinance does not render Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan.

SECTION 2. Section XI-10-21.03 (Conditional Uses in Highway Service District) of the Milpitas Municipal Code is hereby amended by the addition of the following subsection to read as follows:

21.03-20.2 Tutoring Centers

SECTION 3. Publication and Effective Date. Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

SECTION 4. Severability. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.